Common Cause In Wisconsin

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February 12, 2008

Chairman Kreitlow and Members of the Committee:

My name is Jay Heck and I am the executive director of Common Cause in Wisconsin, the state's largest, non-partisan, non-profit reform advocacy organization in the state with approximately 3,000 members and another 2,000 non-member network allies.

We commend you for holding this hearing today on December 2007 Special Session Senate Bill 1 and on Senate Bill 12 – the sweeping, comprehensive campaign finance reform measure better known as the Ellis-Erpenbach bill, now in its fifth incarnation and which Common Cause in Wisconsin first supported back in 1999 when we first began working first with Senator Ellis and later with Senator Erpenbach to shape this legislation. Because Senate Bill 12 is largely contained in December 2007 Special Session Senate Bill 1, together with full public funding for State Supreme Court candidates who agree to limit campaign spending to $400,000 (Senate Bill 171) as well as adjustments to disclosure requirements for widely disseminated campaign communications masquerading as issue advocacy, to reflect the U.S Supreme Court decision of last June affecting the federal McCain-Feingold law (Senate Bill 77), I will limit my testimony today to speaking in favor of December 2007 Special Session Senate Bill 1. We again commend Governor Jim Doyle for calling the Special Session last November 30th and look forward to working with this committee and with the State Senate and Assembly to pass this much needed landmark legislation and having it enacted into law—the first substantive reform to Wisconsin's campaign finance reform in three decades.

There are countless reasons why you need to pass this legislation. But with apologies to David Letterman, here are Common Cause in Wisconsin's Top Ten Reasons for Passing December 2007 Special Session Senate Bill 1 although not necessarily in order of importance – because all of them are important.

#10 - This landmark legislation: increases the current and inadequate $1 check off for public financing on the state income tax form to $5 with a partisan option to make checking off the money more attractive. (It would not increase tax liability or decrease the refund by $5) and it creates an additional source of public funding for candidates through the creation of a Public Integrity Endowment (PIE) to be set up and administered through the Government Accountability Board. Individuals, unions, corporations, foundations and anyone else interested in cleaning up state government could contribute to the PIE and be eligible for a 100 percent tax credit. (There is currently no additional source of public funding--only the $1 checks off).

#9 - Provides candidates with full funding for public grants equal to 35% of revised spending limits if they agree to abide by the revised spending limits ($4 Million – Governor; $700,000 – Attorney General; $150,000 – State Senate; $75,000 – State Assembly) and provides complying candidates with additional public funding equal to the amount over the spending limit that their non-complying opponent spends--up to three times the spending limit. (There is currently no such provision in place).
#8 - Provides candidates who are the targets of outside spending by independent expenditure groups or those who run so-called "issue ads" (that depict a candidate 60 days or less before the general election or 30 days or less before the primary) with public funding matches – of to three times the spending limit. (There is currently no such provision in place).

#7 - Requires the disclosure by sham issue ad groups of how much they are spending and who the donors to the organization are. (Currently no disclosure whatsoever is required of these groups).

#6 - Prohibits campaign fund-raising by legislators and statewide elected officials from the time after the election when the governor or governor-elect is preparing the biennial state budget to be introduced until it is enacted into law. (Currently fund raising is rampant during the budget period). This prohibition would apply to declared candidates for legislative and statewide office as well.

#5 - Abolishes legislative campaign committees -- which legislative leaders have utilized to decrease the independence of legislators and which have created, at the very least, the appearance of corruption through the solicitation for campaign contributions in return for the consideration of pending legislation. (Currently, LCCs collect hundreds of thousands of dollars of special interest money).

#4 - Would re-establish the Wisconsin Supreme Court as the citadel of integrity and impartial justice that it once was by imposing realistic voluntary spending limits on campaigns in return for 100 percent publicly-financed grants freeing justices from damaging conflicts of interest with campaign contributors or outside special interest groups who currently seek to influence the outcome of current supreme court elections.

#3 - Complies with the recent U.S. Supreme Court decision involving Wisconsin Right to Life's challenge to the federal McCain-Feingold law by requiring that communications that are clearly identifiable as attempting to influence the outcome of an election be required to disclose the names of the donors paying for those communications but not require that the funds utilized to pay for the so-called issue ads come from regulated or restricted sources as earlier versions of this legislation and the McCain-Feingold law required prior to the U.S. Supreme Court decision last June. This provision is now in line with regulations issued by the Federal Elections Commission this past December on this matter and we are fully confident that it would withstand any legal scrutiny and court challenge.

#2 - This measure would restore Wisconsin to its rightful place as a national leader in clean, honest and accountable state government in the nation, restore citizen confidence – now at an historic all-time low – in our state elections and in our compromised and corrupted public policy-making process, and finally, help erase the stain of shame and infamy that has cast a dark shadow over Wisconsin since the eruption of our worst political scandal since the 1800's – the Legislative Caucus Scandal back in 2001.

#1 - Finally, enactment into law of this sweeping reform measure would catapult Wisconsin way ahead of Minnesota, which currently has a campaign finance system in place that is light years ahead of and better than ours in terms of having issue – driven elections with spending limits and which enjoys very high confidence among its citizens for preventing campaign finance corruption. If Wisconsin can't do better than Minnesota, then we really need serious therapy because none of us can live with that.

Thank you.

wisconsin DEMOCRACY campaign

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Testimony of the Wisconsin Democracy Campaign on December 2007 Special Session Senate Bill 1, Senate Bill 12, Senate Bill 25 and Senate Bill 463

Senate Committee on Campaign Finance Reform, Rural Issues and Information Technology

February 12, 2008

Thank you for holding this public hearing and setting the stage for action on campaign finance reform in the special legislative session. The Wisconsin Democracy Campaign strongly supports all four bills that are the subject of this hearing.

December 2007 Special Session Senate Bill 1

Special Session Senate Bill 1 combines the features of two reform plans that we strongly support – the Ellis-Erpenbach comprehensive campaign reform bill (SB 12) and the Impartial Justice bill (SB 171) – and it incorporates a new approach to disclosure of special interest-sponsored electioneering masquerading as "issue advocacy" that takes into account the U.S. Supreme Court's ruling on the matter last June. The package provides substantial public financing of all state races and full public financing of state Supreme Court elections. It also bans fundraising during the state budget process as Senate Bill 25 does and eliminates leadership-controlled campaign fundraising committees.

All of these features are much-needed reforms that powerfully address the public's growing concern about political corruption and growing lack of confidence in the integrity of elected state officials and our courts. According to the most recent polling by the conservative Wisconsin Policy Research Institute, only 2% of state residents trust state government to do the right thing most of the time. When asked whose interests they think their elected officials represent the most, 10% of respondents said they think their elected officials represent the voters' interests, while 43% think state politicians are working for the special interests and 42% think they are just looking out for their own self-interest.

The Badger Poll by the University of Wisconsin Survey Center released in late December showed public approval of the Wisconsin Legislature's performance dropped 18 percentage points from the levels of public support indicated by polling done by the center just five months earlier. The latest Wisconsin Survey by St. Norbert College also showed an 18-percentage-point drop in the Legislature's job approval rating since the previous opinion survey done in the spring of 2007. When asked by St. Norbert's Survey Center to identify the biggest problem facing Wisconsin, more people than ever said it's government ethics and politics. The percentage of people identifying government ethics as the state's biggest problem nearly doubled from the previous poll conducted in the spring, and on the list of biggest concerns it ranked ahead of jobs and the economy, health care, education, gas prices, crime

and drugs, the environment and immigration. Only tax and budget concerns worry a higher percentage of Wisconsinites than government ethics and politics.

Wisconsin used to have some of the nation's strongest campaign finance laws. But huge holes have been blown in these laws, and the state's once-effective public financing system for state elections is now useless and largely unused.

Critics of public financing are fond of saying it's wrong to force taxpayers to pay for election campaigns. This is a lame excuse for inaction, not to mention crassly hypocritical. Taxpayers are already forced to pay for election campaigns, and if you tally up the cost of all the public policy favors that are granted to big campaign donors, we are paying a great deal more for election campaigns through the back door than we would if we paid for them directly through a system of publicly financed elections.

The issue before you is not whether taxpayers should pay for elections. We always will, one way or the other. We pay for every slice of budget pork, every tax break, every perk, every favor big donors receive. Taxpayers are paying through the nose for election campaigns the way they are financed today. And we have no choice in the matter. All of us pay for how special interests are rewarded for their campaign donations, whether or not we agree with these policies.

The issue before you is ownership. Special Session SB 1 would replace the special interest-owned elections we have today with voter-owned elections.

Along with creating a system of voter-owned elections, Special Session SB 1 also closes a gaping loophole in Wisconsin's campaign finance laws that has rendered our state's disclosure laws and campaign contribution limits effectively meaningless. In 2006, special interests spent an estimated $15 million on secret electioneering in the form of undisclosed "issue ads."

Full disclosure of special interest-sponsored election advertising and restrictions on the source of funding used to pay for these ads are constitutionally permissible. But it needs to be done in the way it is handled in Special Session SB 1, which takes into account the latest U.S. Supreme Court ruling on the issue ad disclosure provisions of the federal Bipartisan Campaign Reform Act of 2002, commonly known as the McCain-Feingold law.

Finally, a word about a Supreme Court closer to home. Our state Supreme Court is operating under an ethical cloud. The court's seven justices face the prospect of becoming part-time judges as they must increasingly consider sitting out cases involving campaign contributors. The court finds itself in a no-win position. If justices recuse themselves the court can be paralyzed, unable to decide cases. If justices rule on cases when they have an economic conflict of interest, they risk further undermining the public's confidence in the fairness and impartiality of our courts. Already, a poll by a leading Republican polling firm, American Viewpoint, finds that only 5% of Wisconsin residents believe that campaign contributions made to judges have no influence at all on decisions judges make in the courtroom, while 78% say they have "a great deal" or at least "some" influence.

Wisconsin's Supreme Court justices need to be freed from the inevitable conflicts of interests that are the natural byproducts of the badly broken system of selecting high court judges currently in use in our state. The public is demanding that the judges be liberated, as American Viewpoint's polling last month found that 65% of state residents support publicly financed Supreme Court elections. And after hearing arguments both for and against such reform, support for public financing went up to 75%.

Just as significantly, the justices themselves are demanding reform. All seven members of the state Supreme Court – from the most conservative to the most liberal – signed a letter in December voicing support for publicly financed Supreme Court elections. This is incredibly significant. Our state Supreme Court is not unanimous about much of anything. But they are unanimous about this.

If full public financing of Supreme Court elections cannot be accomplished as part of a broader set of reforms, then it needs to be done as separate legislation. Our high court is in deep trouble and it puts our entire court system at great risk. This crisis calls out for immediate action.

Senate Bill 12

We have long supported the Ellis-Erpenbach bill and continue to believe that, if enacted, it would get Wisconsin to a much better place when it comes to our elections than where we find ourselves today. But we prefer that SB 12 be incorporated into an updated and even more comprehensive package of reforms that Special Session SB 1 represents. The special session bill not only provides an extra measure of protection to our Supreme Court, but its revised approach to disclosure of phony issue ads is in keeping with the latest jurisprudence in this area.

The approach to disclosure currently contained in SB 12 does not take into account the U.S. Supreme Court's ruling last June in the Wisconsin Right to Life case. If SB 12 is considered as separate legislation, it needs to be amended to incorporate the new approach to issue ad disclosure that is included in Special Session SB 1 and the recently introduced stand-alone issue ad bill, SB 463.

Senate Bill 25

The Democracy Campaign strongly supports banning campaign fundraising during the state budget process, and with the addition of one amendment we support Senate Bill 25.

According to the latest polling by the Wisconsin Policy Research Institute, 82% of Wisconsin residents say lobbying groups determine what's in the state budget and what state government spends. Only 12% believe the voters do. This survey research finding screams out for reform.

SB 25 is not a significant campaign finance reform. But it is a meaningful state budget reform. It is our preference that a fundraising ban during budget deliberations be accomplished as part of a comprehensive reform of our campaign finance system, but if the committee acts on such a prohibition separately it should not be passed before it is made into a true ban on fundraising during the budget process. Making it a true ban requires the addition of one amendment that applies the prohibition on fundraising to the four partisan legislative campaign committees.

The four legislative campaign committee – the State Senate Democratic Committee, Committee to Elect a Republican Senate, Republican Assembly Campaign Committee and Assembly Democratic Campaign Committee – account for one-third of the campaign fundraising done by legislators during the budget process. Under SB 25 as it stands today, the fundraising ban during the budget process does not apply to these four committees.

Senate Bill 463

Senate Bill 463 is a rewrite of Senate Bill 77, which passed the Senate earlier this session before the U.S. Supreme Court handed down its decision in the Wisconsin Right to Life case. This revised version of SB 77 takes the Court's June ruling into account as it closes the loophole that has devoured our state's campaign finance laws. Wisconsin's campaign finance disclosure laws have become

effectively irrelevant because interest groups can so easily circumvent them. And they do. As mentioned previously, some $15 million flew under the radar in 2006, influencing the outcome of numerous state legislative races as well as statewide contests for governor and attorney general. And the best estimates indicate at least another $3 million was spent secretly to decide the 2007 Supreme Court race.

Longstanding limits on campaign contributions also have become easy to skirt by those who wish to pump much larger sums of money into campaigns than they can legally give to a candidate or registered political committee.

This is happening because Wisconsin's laws relating to electioneering activities are hopelessly out of date. They are many years – and two U.S. Supreme Court rulings – behind the times. It is both possible and constitutionally permissible to restore meaning to our state's disclosure laws and campaign contribution limits. Senate Bill 463 does just that.

Opponents of campaign finance reforms, especially those reforms featuring public financing of election campaigns, often are heard saying that campaign donors should be allowed to give as much as they please, as long as everything is disclosed. But the disclosure they profess to support is a pathetic joke so long as this massive loophole that has enabled untold millions in special interest money to flow undetected into state election campaigns is allowed to stay open.

No one who opposes the reform embodied in SB 463 and also included in Special Session SB 1 can be taken seriously on the subject of disclosure.

If Wisconsin is to have any hope of reviving its once-proud reputation for clean, open, accountable and honorable politics, the phony issue ad loophole simply must be closed, preferably as part of a comprehensive package of reforms, or as separate legislation if necessary.

LEAGUE OF WOMEN VOTERS® OF WISCONSIN EDUCATION FUND

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February 12, 2008

To: Senate Committee on Campaign Finance Reform, Rural issues and Information Technology

Re: Support for Senate Bill 12, Special Session Bill 1, and SB 25

The League of Women Voters of Wisconsin is pleased to offer our support for this proposal for comprehensive campaign finance reform. These bills make important and needed amendments to the statute, which has regulated campaign financing in Wisconsin for many years.

The intent of our current law, enacted in the 1970s, was that state funds assure that state candidates have adequate resources to reach the voters with their messages, that contributions and spending are limited and special interest influence is controlled and disclosed. Until the late 1980s, most candidates used these state funds in exchange for keeping spending under the limits, and the check-off provided enough money to fund full grants.

- By the 1990s several things had changed. The number of tax filers checking-off dropped significantly, full grants equaling 35% of the limits were not available, and candidates often faced high spending opponents. It has become too risky for candidates to apply for the ever-smaller grants while accepting the 1970s spending limits and possibly facing big-spending opponents.

- Our current system clearly no longer works. Public funds are not there but special interest funds are - and are used by both candidate committees and independent spenders.

This legislation goes a long way toward assuring adequately and equitably financed campaigns. We offer the following thoughts about some key provisions:

- The check-off should be raised to $5 and GPR funds provided as needed. This guarantees that full grants will be available and that candidates will not be discouraged from applying for the funds.
- Candidate spending limits are increased to amounts adequate for viable campaigns. The League believes this will allow candidates to effectively reach voters with their messages.
- Grants are set at 45% of spending limits for partisan offices. While we believe a higher level would be preferable, further reducing the level of private funds, 45% will provide adequate funds for candidates to get their message out given the spending limit increases.
- Supplemental grants are provided for victims of independent spending and opponent spending beyond the limits as a means of discouraging such special interest spending by both candidates and independents.

(continued)

- There should be full disclosure of expenditures and the sources of funds by all groups that are involved in Wisconsin campaigning which is defined as express advocacy according to the US Supreme Court decision in 2007 and the related Federal Elections Commission regulations adopted in Nov. 2007.
- Most committee-to-committee transfers are eliminated as is special status for legislative campaign committees, both of which have become ways to conceal special interest influence, which unfairly increases incumbent and leadership control of the legislative process.

If enacted, Special Session Bill 1 will provide Wisconsin with a workable basic comprehensive campaign finance law and we urge its passage. The League, however, will continue - now and after passage - to support and work for certain stronger provisions.

- We would favor a higher percentage of public funding for all state campaigns. Whatever the level, we strongly believe that individual contribution limits should be lowered. Current limits give candidates with access to large contributors a significant advantage and continue to provide a channel for special interest influence.
- We would like to see the 6% primary vote requirement lowered as a way to increase public funding for independent and third party candidates, providing voters with a wider choice of viable candidates.

We thank you as always for the opportunity to express our opinion on this very important issue. We particularly thank the Governor and those members of the Legislature who have recognized the timeliness and necessity of achieving bipartisan comprehensive campaign finance reform in Wisconsin.

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MEMORANDUM

To: Senate Committee on Campaign Finance Reform, Rural Issues and Information Technology

From: Thomas J. Basting, Sr., President-Elect
State Bar of Wisconsin

Date: February 12, 2008

Re: State Bar of Wisconsin Support for Senate Bill 12 and Special Session Senate Bill 1 (Campaign Finance Reform)

The State Bar of Wisconsin reiterates it strong support for the provision of general purpose revenue to fund public financing of Supreme Court election campaigns.

The State Bar is chartered by the Wisconsin Supreme Court to, among other things, "provide a forum for the discussion of subjects pertaining to the practice of law, the science of jurisprudence and law reform and the relations of the bar to the public..." With this vital mission in mind, I am writing to convey the State Bar's strong support for the principles embodied in SB 12 and Special Session Senate Bill 1, as they pertain to public funding of Supreme Court campaigns.

We recognize the inherent benefit public campaign financing for Wisconsin judicial elections offers as a means to avoid even the perception that contributions to the election campaigns of judicial candidates could influence their decisions. This reflects the unique and critical role that the justice system plays in our system of government.

The State Bar's Board of Governors specifically addressed the issue of public financing for Supreme Court campaigns in 2006 and concluded that such a reform would "help maintain the integrity and independence of Wisconsin's courts, where even the perception of bias destroys public trust and confidence in the justice system."

These two bills offer members of this committee an opportunity to build public trust and confidence in Wisconsin's justice system. On behalf of the State Bar of Wisconsin, I strongly urge members to use this opportunity to affirm the fundamental principle that Wisconsin's highest court is and will remain fair, neutral, impartial and nonpartisan.

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February 12, 2008
Public Hearing
Testimony

My name is **William R. Benedict**. As a proud citizen of Wisconsin, it is a privilege to have this opportunity to testify before the Senate Committee on Campaign Finance Reform and Rural Issues and Information Technology.

I am a retired social worker who is now working full time as a citizen advocate for campaign finance reform and state funding of stem cell research. My special constituency is myself, my family and the citizens of the State of Wisconsin.

I am here this morning because I sincerely believe that our body politic is sick at the core and it is urgently in need of comprehensive campaign finance reform. Our legislature has a systemic and insidious disease so strong that it infects our most dedicated public servants. Wisconsin voters know deep down in their soul that their vote no longer counts. They believe that you have sold them out to those who pay for your elections term after term and now have put in jeopardy their sacred political freedom.

It hurts me this morning to have to say that I believe you have prostituted your office in order to have your election campaigns paid for by the rich and the powerful.

Not until every Wisconsin citizen can run for public office regardless of how much money they have will we have a state government by the people and for the people. I urge you and all of your Senate and Assembly colleagues to take the strong medicine needed to cure this terrible sickness. Please pass Senate bills 12, 25, 171 and 463.

Make Wisconsin pure and clean again!

Thanks again for this opportunity to speak.

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GUEST COLUMN 2-1-08

Governor's speech misses mark on stem-cell innovation

By WILLIAM BENEDICT

As a senior citizen of the state of Wisconsin whose family suffers from three serious cell-based diseases and who has been working with both private and public officials in support of public funding for stem cell research in Wisconsin, I was deeply disappointed when my governor in his State of the State address looked our legislators and the citizens of Wisconsin in the eye and boasted that Wisconsin has stayed at the forefront of stem-cell innovation "because we kept politicians out of it."

I have to assume the "we" he was referring to are the citizens of Wisconsin. Or did the "we" refer to his administration? In either case, I predict taxpayers and the health consumers of this state soon will deeply regret that the people and their representatives acquiesced and remained disengaged while the most critical health policy issues were left unaddressed.

Benedict

How can the citizens of this state and our policy makers remain disengaged around a human health concern having to do with the essence of life itself?

If not us — the citizens through our Legislature — then who will decide? While I support our free marketplace and the critical role that private enterprise must play if Wisconsin's stem cell program is to succeed, I am not about to support anyone who advocates that citizens and their policy makers withdraw from the public square on this or any other vital public issue.

As much as I admire James Thomson and his team of talented and dedicated scientists, neither they nor the UW research community nor the biotech/pharmaceutical industry can be left to mind the people's business relating to how best to fund stem cell research and to ensure that the needs and interests of taxpayers and future health consumers of this state are fairly represented.

The media are trying to distract us from this issue by framing it primarily as an economic answer to all our problems. They would prefer that citizens see the chief public benefit in terms of the trickle-down economic effect and the promise of future job creation.

While this benefit is worthy, it is far too narrow and short-sighted.

Further allocation of public tax incentives and innovation grants must be accompanied with accountability and public benefit requirements, including intellectual property rights, public disclosure and conflict of interest safeguards.

To continue to focus primarily on job creation outcomes and ignore the state's present health care crisis is short-sighted and irresponsible.

Now is the time for our policy makers to decide whether the miracle cures promised will be made accessible and affordable to Wisconsin families with cell-based diseases.

The answer to this question must be reflected in the language of the state's financial and tax research innovation incentives now being proposed.

Asking the grantees to do the right thing after giving away the farm is like asking the fox to cough up the chickens after giving him the key to the hen house.

If Wisconsin truly is to remain at the forefront in its stem cell initiative, like California and many other states, we will set about immediately to fill the policy gaps referred to above.

Without legislative leadership we should not expect that cell-based therapies and drugs derived from this research will eventually benefit all of us as health consumers and taxpayers.

I hope a year from now, when our governor again gives his State of the State address, he will be able to thank your legislators and mine for building a policy platform that will match the genius of our science and will ensure Wisconsin's stem cell program remains at the forefront of both health care policy innovation.

Benedict is a retired social worker who lives in Madison.